

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

AUG 29 2013

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2013-0278-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
JOHN PIERRE BAKER,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR57359002

Honorable Casey F. McGinley, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

John P. Baker

Buckeye
In Propria Persona

V Á S Q U E Z, Presiding Judge.

¶1 After a jury trial, petitioner John Pierre Baker was convicted of conspiracy to commit child abuse, ten counts of child abuse, and two counts of kidnapping a minor under the age of fifteen. This court affirmed Baker's convictions and the prison terms imposed, which totaled 86.5 years. *State v. Baker*, No. 2 CA-CR 99-0222 (memorandum decision filed Sept. 14, 2000). This petition for review follows the trial court's dismissal

of a petition for post-conviction relief in which Baker raised claims of ineffective assistance of counsel and a significant change in the law entitling him to relief. This is the sixth post-conviction proceeding Baker has brought pursuant to Rule 32, Ariz. R. Crim. P.¹ We review a trial court's summary denial of post-conviction relief for an abuse of discretion. *State v. Bennett*, 213 Ariz. 562, ¶ 17, 146 P.3d 63, 67 (2006). We find no such abuse here.

¶2 In his May 2013 petition for post-conviction relief, Baker maintained the Supreme Court's decision in *Missouri v. Frye*, ___ U.S. ___, 132 S. Ct. 1399 (2012), constitutes a significant change in the law as contemplated by Rule 32.1(g), Ariz. R. Crim. P. He also claimed trial counsel had been ineffective in failing to communicate to him a second plea offer by the state until two days before trial, by which time the offer had expired. He asserted that, but for counsel's failure to inform him of the plea offer in a timely manner, he would have accepted the offer, would not have gone to trial, and would have been sentenced to significantly shorter prison terms.

¶3 In its June 2013 minute entry order, the trial court found Baker was precluded from raising this claim of ineffective assistance of counsel because that claim and various arguments relating to it had been "previously raised, heard, and ruled upon" or could have been raised. The court summarized the claim as it had been presented in an earlier petition for post-conviction relief and set forth the relevant portions of its

¹Baker sought review of the trial court's denial of relief in those proceedings and we have sustained those rulings. See *State v. Baker*, No. 2 CA-CR 2008-0012-PR (memorandum decision filed Sept. 18, 2008); *State v. Baker*, Nos. 2 CA-CR 2005-0366-PR, 2 CA-CR 2006-0088-PR (consolidated) (memorandum decision filed Jan. 25, 2007); *State v. Baker*, No. 2 CA-CR 2006-0428-PR (memorandum decision filed Feb. 28, 2007). Also pending in this court is Baker's petition for review of the trial court's denial of his motion for declaratory judgment, which the court treated as a fifth request for post-conviction relief. *State v. Baker*, No. 2 CA-CR 2013-0154-PR.

December 2004 ruling on that petition after two evidentiary hearings. *See* Ariz. R. Crim. P. 32.2(a)(2), (a)(3) (defendant precluded from raising claim finally adjudicated on merits in previous proceeding or claim that could have been raised). The court also rejected Baker’s claim that *Frye* was a significant change in the law that entitled him to relief pursuant to Rule 32.1(g). It found *Frye* inapplicable here in light of the court’s previous rejection, after evidentiary hearings, of Baker’s contention that he had not been “informed of the revised plea offer.”

¶4 Because the trial court has clearly identified and thoroughly and correctly resolved the claims Baker raised in this proceeding, we need not restate any more of the court’s ruling than we have summarized here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Rather, because the court correctly resolved the claims “in a fashion that will allow any court in the future to understand the[ir] resolution,” *id.*, and because Baker has not sustained his burden on review of establishing the court abused its discretion, we adopt the court’s ruling.

¶5 We grant Baker’s petition for review but deny relief.

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ Michael Miller
MICHAEL MILLER, Judge